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In Re Application of:
Caldwell et al.

Serial No. **09/973,411**

Filed: **October 9, 2000**

Title: **Compounds Capable of Activating Cholinergic Receptors**

Examiner: **V. Balasubramanian**

Group Art Unit: **1624**

Docket No. T103 1300.4

AMENDMENT PURSUANT TO 37 C.F.R. §1.116

Assistant Commissioner of Patents
Washington, D.C. 20231

The following remarks are presented in response to the Office Action mailed in connection with the above-identified application on September 4, 2002.

REMARKS

Claim 12 is pending in the application. This claim is directed to N-methyl-5-(5-pyrimidinyl)-penten-2-amines.

Rejections Under 35 U.S.C. §103 (a)

Claim 12 has been rejected under 35 U.S.C. §103 (a) as obvious in view of U.S. Patent No. 5,597,919 to Dull et al. ("Dull"). This rejection is respectfully traversed.

The Declaration under 37 C.F.R. 1.132 of Bill Caldwell was submitted in response to a previous Office Action. The instant Office Action states that the Declaration was insufficient, as it related to compounds including a pyridine ring rather than a pyrimidine ring.

The hemigalactarate salt of the claimed compound was evaluated and shown to have favorable binding properties to CNS nicotinic receptors (page 50, line 20 through page 51, line 15). The only remaining question is whether the Declaration's showing of the benefits of methyl substitution at the alpha position of a secondary amine side chain of various substituted pyridines can be used to show the benefits of methyl substitution at the alpha position of a secondary amine side chain of the claimed substituted pyrimidine. The Declaration is sufficient for this purpose.

The claimed pyrimidinyl compound is not deaminated by deaminases at the same rate as similar compounds without the alpha methyl group. The positive effect of the alpha methyl substitution has been shown in the previously submitted Declaration with respect to various substituted pyridines. There is no sound scientific basis to doubt that the claimed pyrimidine would not overcome similar deamination